



FILE COPY.

Supreme Court of the United States.

OCTOBER TERM, 1905.

IN EQUITY.

No. 11, Original.

Office Supreme Court U. S.

FILED

MAY 14 1906

JAMES C. KENNEDY

THE STATE OF LOUISIANA, COMPLAINANT,

v.

THE STATE OF MISSISSIPPI, DEFENDANT.

MOTION TO AMEND THE FINAL DECREE AS TO COSTS.

Comes now the defendant and shows to the court: That by the final decree made in this case, and dated April 23, 1906, it was decreed, among other things, "that the costs of this suit be borne by the State of Mississippi." The defendant now moves the Court that said provision in the final decree be so amended as to read "that the costs of this suit be borne equally by the complainant and defendant," for the following reasons:

*First*, because the bill shows upon its face that it was filed to carry out an agreement to prosecute a friendly suit in this Court for the settlement of the boundary in question. Such a proceeding was suggested by complainant to the defendant in the following language: "It is apparent that the only hope of settlement is a friendly

suit in the Supreme Court of the United States and we respectfully suggest this course." Record, p. 15.

The court in its opinion has recognized the fact that the suit is a friendly suit for the settlement of a boundary. See p. 14. As the suit has been thus prosecuted, as a friendly suit, for the equal benefit of both parties, we submit that the costs should be equally divided according to the general rule of the English Court of Chancery in boundary cases. See Daniell's Ch., Pl. and Pr., vol. II, p. 1165.

*Second*, because it is the firmly settled rule of this Court that, in boundary cases between States, the costs are to be equally divided. See *Iowa v. Missouri*, 7 How., 661; *Nebraska v. Iowa*, 143 U. S., 359; *Indiana v. Kentucky*, 163 U. S., 520; *Missouri v. Iowa*, 165 U. S., 270; *Tennessee v. Virginia*, 190 U. S., 64. In *Nebraska v. Iowa*, this Court said: "The costs of this suit will be divided between the two States, because the matter involved is one of those governmental questions in which each party has a real and vital, and yet not a litigious interest."

*Third*, because the Court has decreed to complainant only a fractional portion of the relief prayed. The final decree denies to complainant an area of water territory, claimed many times larger than the land area unsuccessfully claimed by the defendant.

Respectfully submitted.

WILLIAM WILLIAMS,  
*Attorney-General of Mississippi.*

HANNIS TAYLOR,  
MONROE McCLURG,  
*Of Counsel.*

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GENTLEMEN: Please take notice that the defendant in this case will, on the 14th day of May, 1906, at twelve o'clock, noon, on said day, at the opening of said court, or as soon thereafter as counsel can be heard, at the Supreme Court Room, in the city of Washington, District of Columbia, in open court, move this Court to amend the final decree rendered herein as will more particularly appear in the motion hereto annexed.

WILLIAM WILLIAMS,  
*Attorney-General of the State of Mississippi.*

HANNIS TAYLOR,  
MONROE McCLURG,  
*Of Counsel.*

To Walter Guion, Attorney General of the State of Louisiana, Baton Rouge; John Dymond, Jr., Francis C. Zacharie, New Orleans, La.